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Supreme Court, U.S.
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CASE NO. 04-1042

In The

Supreme Court of the United States

Nick A. Kolev, PhD, P.E.(In Pro Se)

Petitioner

v.

Tonya M. Prescott,SB#123530; Prescott&Prescott Law Firm

Respondent

Represented by: Laura M. Levy SB#216054

On Petition for Writ of Certiorari

California Court of Appeal 4th District, Div. 3 Case: G032337

REPLY TO OPPOSITION FOR A WRIT OF CERTIORARI

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I. QUESTIONS PRESENTED FOR REVIEW

Case presents for review JUDICIARY HONESTY, ETHICS, truthfulness of Kofy Annan assessment of US in UN-September 21, 2004:*"No one is above the law, and no one should be denied its protection. Every nation that proclaims the rule of law at home must respect it abroad; and every nation that insists on it abroad must enforce it at home"*

1/. JURISDICTION OF THE COURT, when Judge challenged (CCP §170.1;§170.6) viciously refuses to recuse himself, makes treats to "Pro Se", who fears, to show up in Court Room. Validity of Court decisions involving one party only.

2/. CLIENT-ATTORNEY ETHICS, involving File blockade to prevent malpractice lawsuit, **Local Rules of Court 3-700(D)(1) ; 5-220 ,ATTORNEY-ATTORNEY** loyalty and interests subject to disclosure.

3/. "PRO SE'S RIGHTS UNDER DUE PROCESS of State (Cal Const Art I, §15) and Federal (US Const Amendments I, V, XIV), when appellate court arbitrarily ignored legal issues involving mandatory rehearing on Jurisdictional and Procedural Questions under California Gov. Code §68081, because Jurisdiction decided this case.

"Pro Se" is pleading liberal Justices to back up "his right" of ***self representation***, proving it is real, just like the rights of minorities, religious groups, women first staged in Court , led to legislative changes later.

Petitioner is pleading conservative Justices to take out "Pro Se" ***self representation*** "paper right" because it is tramped equally by Attorneys and Justices and **ONLY LURE the Lay Man Litigants like Petitioner to spend time and money on JUSTICE RUSH in NEVER land.**

4/. FINANCIAL OBLIGATIONS OF "PRO SE", WHERE HE NEITHER SECURED JUDGMENT, NEITHER RECEIVED ANSWER TO HIS ALLEGATIONS. DECLARATORY RELIEF.

In court of Appeal "Pro Se's 200 points, authorities are unanswered, regarding attorney fraud and deceit, judge recusal, fair and due process. He understands that **he may not prevail**

even right, but lay man wants-legal answer-**NO ANSWER, NO PAY FOR FIAT VALUE COURT PROCEDURE.**

5./ US SUPREME COURT CONSOLIDATION OF SIMILAR STATE AND FEDERAL LAW CASES.

Petitioner has a fully briefed, waiting for decision in 9th Circuit Civil Rights Case No. 04-56137 involving Biven's Action-free right to marry, Malpractice of US Attorney .

Both cases involve "Pro Se 'Rights, Legal Malpractice, marriage, divorce. They are complimentary. Supreme Court Rule 14.2 is not particularly prohibitive to that.

6/. BAR SEGREGATION OF "PRO SE"IN COURT. STATE BAR ACT OF 1927. LAW GRAY AREA REGARDING SUCH CONSTITUTIONAL RIGHT.

The Constitutional "Pro Se" Right in Court Civil Matters , U.S.C. 28 §1654, is an elusive dream, carved in stone on the front of US Supreme Court "EQUAL JUSTICE UNDER LAW".

The petitioner, PhD Lay Man, fluent in 4 languages, took Legal Malpractice in Divorce, to realize after 3,5 years, 50,000 pages referenced, 600 pages filed:

If your are destitute of House and $120,000 by Attorney , the Judge, whose son is working for defendant is going to tell you *Every" Pro Se" has a fool for a client*" and if you keep arguing *you should be" locked up".* The appellate Justice is going to side with his Judiciary buddies, not with the Jurisdictional law, proving it is wrong to have **Judiciary adjudged by judiciary**-neither State Bar, neither Commission on Judicial performance, neither your representatives would help you out where is **NO LAW FOR "PRO SE" AND JUDICIARY IMMUNITY FOR BAR BUDDIES.**

7/. AUTHORITY OF APPEAL JUSTICE TO PARDON LAW VIOLATIONS, AS "NEGATIVE LEGISLATOR".

The Appellate Justice pardon and granting jurisdiction to his former Superior Court buddy for covering up legal malpractice, holding files is coming to Hans Kelsen observation:"*The annulment of the law is Legislative function. A court which is competent to abolish laws functions as A NEGATIVE LEGISLATOR.* General Theory of the Law and State, Cambridge, 1949, *p.268.*

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INTRODUCTION

Petitioner, strongly opposed respondent's request for extension of time because the only reason for Respondent even to file an Opposition Brief is to throw a Dirt and to extend time looking for connections. HOW TRUE?!?!

The strongest LEGAL argument of Certified Family Law specialist with 20 years of experience in compassion and carrying for his clients is **to label his former client "Anti-Semite".(OB, p. 1, at Ln 10)**

None of the accusations of stealing client's files, no justification for missing house for $700,000 and Account for $120,000 from property agreement, child support based on no law, private pension plan given in exchange for nothing-none is answered, justified, or explained from legal stand point.

Well Petitioner took the other legal arguments like*" East European Émigré", layman, incompetent* as private opinion with no bearing on the case, but fighting Anti-Semitism is important not only for the God sake memory of his former Russian Jewish girl friend, but because it is insult to his Jewish friends.

Why Anti-Semite" would hire you Mrs. Prescott?! How Low class statement - cheap shots to Two US Supreme Court Justices from Jewish decent?!? Records in 4 Libraries around L.A. show, he red more than 50/fifty/ books in Jewish history, Jewish philosophy and mostly Jewish misteries-Khaballa for the last year alone.

The SECOND STRONGEST ARGUMENT-lies and distortion of truth beyond imagination- Attorney Byron S. Hollins is denouncing his brother Attorney Andrew S. Hollins as totally unrelated by blood or business like is that difficult to check over the Internet Brooklyn, NY birth records between

Feb. 1950 and July 1951. Two legal Firms extending the same family trust business sharing resources and assets.

The son of Judge G. Lewis -Attorney John Jayson Lewis (SB 216119) is labeled as obscure subject in Hollins & Schechtman. Well **Petitioner is ready to pay Obscure associate testimony expenses from California to Washington, DC** in exchange of everybody's State Bar Licenses.

Justice W. Rylaarsdam - yes very knowledgeable Jurist, but if that is a help in this case?! His theoretical work "Kill the procedural Dinosaur-Judge Modest Proposal to eliminate Demurrer"10 Cal. Laywer 1990/4 IS NOT IMPAIRMENT to O.K. General Demurrer in Legal Malpractice, where Attorney abandoned his client, destroyed files, left undivided $700,000 house and $120,000Account.

So where the knowledgeable scholar stands: WITH HIS THEORETICAL KNOWLEDGE, OR PRIVATE JUDICIAL INTEREST?! And this is a small case-How about Orange County bankruptcy, big cases-they don't have to bribe him, he would offer his price.

Petitioner is challenging not only His law choices, **but his believes in God too** as Loyola Scholar, when he is O.K. with violation of **CCP 170.3 Subd.(b)(2)(A)** mandating RESPONSE, NOT IGNORANCE from a Judge when challenged for impartiality, bias. **What is the moral value** of his tons of publications against frivolous Legal Suits, which he-the knowledgeable jurist is fighting with Frivolous Legal Opinions Where is his knowledge-**sold to Private Judicial Interest.**

STATEMENT OF CASE FACTS-distorted, repainted, butchered, covered by Respondent in violation of California Rules of Court 5-200

Petitioner filed a first amended complaint in which he failed to allege any cognizable cause of action (OB p.1 at Ln

12) How about not returning commingled bank statements in violation of Cal. Rule 3-700(D)1, disclosing the fact Respondent studied with Vickie Bridgman-wife of opposing counsel according to Cal. Rules of Court-3-320, how about missing a house and account from property.

*When Petitioner withdrew his First Amended Complaint the trial court dismissed his case(OB p.2 at Ln 1)***The cited document is Objection to trial before crooked and corrupt judge who refuses to recuse himself according to Cal. CCP 170.3(c)(1).**

Trial Court started hearings on Demurrer unaware that Petitioner filed First Amended Complaint 10 days earlier. (OB p.2 at Ln 24).**Unaware?!?-Really!?** The crooked Judge G. Lewis trashed 300 pages document, over 1.5 inch thick. **Takes the Judge's Robe to hide and trash that size of document,** if dropped on small woman or child would cost permanent damage.

Unaware?! Asking 5 times (Appendix 3 p.6) if Petitioner has a stamped copy expecting the layman doesn't, so it is no proof it was filed, because the opposing counsel claimed FedEx could not make it for 5 days.

Trial Court recommended that Petitioner find Legal Counsel (OB p.4 at Ln 8) How hypocritical? Crocked Judge G. Lewis refused Layman stipulated extension of time in the middle of Thanks Giving Holiday - 2 days before dead line just to prevent that-finding attorney. For the same reason he did not allow time for leave to amend First Complaint.

Further on 3 full pages (OB pp. 3-5) Respondent is citing prejudicial statements of a Judge, having his son working for brother of Defendant's Counsel, discussing the quality of PRO SE work at Dec. 16th,2002-two and a half years ago

GIVE THE PRO SE LITIGANT THE BENEFIT OF LEARNING ON THE JOB. For 4 years on the case Petitioner red more than 60,000 pages of legal materials, submitted in motions and briefs more than 700 pages of pleadings. His points

and authorities never been answered by Respondent. **He found that Respondent sided on all seven issues in Division of Property with opposing Counsel, he found mistakes, corruption, abuse of law by Trial judge and Court of Appeal Justice-UNANSWERED SO FAR.**

Respondents demurred to First Amended Complaint. Petitioner filed no opposition. (OB p.6 at Ln 3) The demurrer was in violation of Cal. CCP §430.40(a) filed 42 days after First Amended Complaint. The crooked Judge G. Lewis had no jurisdiction over the case at the dead line according to California CCP 170.3Subd.(c)(4) more than 10 days after he was challenged. What for to file opposition consenting to his crooked rulings?-to trash it again, or "to lock up" petitioner as he promised(Appendix 3, p.7)

On March 4th(late in the afternoon-NK) trial court posted it's tentative ruling, On March 5th(early in the morning-NK) tentative ruling became order. (OB p.6 at Ln 13) Crooked procedure in Department C-22 Judge G. Lewis. What is the time to react if the Petitioner is 60 miles away from Court?!?!-Overnight!?!? Before he would reach Court it is closed At that time did not matter too much what kind of decision recused judge would make.

*On March 27th, respondents submitted an order of dismissal, which was entered on April 1stl(**OB p.6 at Ln 24)***Another crooked procedure-The order was submitted March 12th and mysteriously traveled the limit of 15 days, so according to Cal. CCP §659 Petitioner lost his right to file for new trial before to have it.(Appeal -OB p. 30)

*On April 18th, filed peremptory challenge and Challenge for Cause according to CCP 170.6 and CCP 170.1The case has been dismissed over2 weeks early(**OB p.7 at Ln 4)***No the case was not dismissed early, because Petitioner checked the court file and there was nothing.**

Crooked Judge G. Lewis used Clerk procedure in violation of CCP 170.3(b)(3) forcing Plaintiff to give him the motions for challenge before to file it. At that moment Judge Lewis claimed the case was already dismissed-in full secrecy, no attendance, no Notice of prevailing Counsel, no Court Reporter, no posting on internet or in the file???

So what is the difference between American legal system and Legal systems in Rouanda, Burundy or Central African Republic?-landlocked poor countries in Africa -**THE COST!** Otherwise it is the same High Standard of "Fair and Due Process" the same corruption, fraud and deceit isn't it?!?!

So the First challenge on January 17th, was timely but not clear *(NO such a provision of the law-Only in the mind of knowledgeable scholar W. Rylaarsdam)* The Second on April 18th -clear but not timely, because of Judge fraud, the third not in the right paper, the fourth not in the right format. SO NEVER HAPPENS?!?! **Discrimination beyond imagination.**

The Petitioner failed to plead or show that he could plead the elements of his various claims(OB p.8 at Ln 1-2) :

- ***specifically plead facts in support of each element of fraud and deceit.*** Lie and misstatement even if backed up by knowledgeable Jurist like W. Rylaarsdam when he sides with PRIVATE JUDICIAL INTEREST, instead of law STILL LIE AND MISSTATEMENT. All 5 Elements Of Fraud And Deceit Regarding Wells Fargo Account:-(A). Actual misrepresentation-(B) Attn T. Prescott knowledge of statement's falsity-(C) Intent to defraud) -(D) Justifiable reliance to the last moment. -(E) Resulting damages) were pleaded:
  - **FIRST TIME in Appeal Open Brief p. 35-37;**
  - **SECOND Appeal Reply Brief-p.22-25,**
  - **THIRD-Petition for Rehearing, p. 31-34;**
  - **FOURTH Petition for Review by Cal. Supreme Court,**
  - **FIFTH Commission on Judicial Performance 2-5;**
  - **SISXTH Writ Appendix 15 p. 2-5**

Without counting previous pleadings in Trial Court How many times they have to be pleaded in order to be Considered?!?! How much paper, time and effort **HOW MUCH**

ILLITERACY, IGNORANCE, PREJUDICE, HUMILIATION, BAR SEGREGATION A PRO SE LITIGANT HAS TO EXPERIENCE IN ORDER TO SUCCEED. Such a stubborn position of Respondent is not only contempt to Fair and Due process, but Contempt to any common sense.

Petitioner failed to plead facts his wife would have settled for less. Petitioner criticized above cited by Respondent cases Marshak v. Bollesteros as incompetent citation of irrelevant case, where Marshak attempted speculatively to divide same assets twice, where in this **"CASE-WITHIN-A CASE"** house and account are fraudulently given to one side, never cleared about origin, or ownership, **never divided.**

Pleaded more than 10 times with more than 50 legal cases- No answer from Respondent, Judge G. Lewis, or W. Rylaarsdam. Obviously all of them are illiterate on the subject of "CASE WITHIN A CASE" a basic legal term even for a LAY MAN.

Emotional distress - none of dissolution proceedings rising to outrageous conduct. **Such a lie. How about depriving Client of his files for 4 years, so he does not know the extend of the damages, could not hire attorney. How about calling police when he came to demand files. (Ap. Ax p.168) Enormous fact work in Appeal Open Brief p. 40-47 never answered, never considered BAR SEGREGATION beyond imagination.**

ARGUMENT WHY US SUPREME COURT SHOULD EXERCISE JURISDICTION.

Perfect case to be considered-One Attorney from 2 Attorneys Law Firm (Attn T. Prescott never been able to work with anybody else, but her daughter)-One Petitioner-One Trial Judge(No Trial by Jury) One Appellate Justice. This is not ENRON or WORLD.COM case involving corporate Law

Firms, Corporate Business, lobbyists, politicians, media, thousands of testimonies and witnesses.

This is not terrorism, abortion or religion case, but about the reputation of Judiciary involving challenging a corrupt trial judge, fraudulent attorney.

Crystal clear abolition of the law by Appellate Justice W. Rylaarsdam. According to US SC Rule 17(1)(b) Supreme Court would consider important rights decided by State Court of last Resort in conflict with LAW, OR ANOTHER DECISION-

Opinion of State Appellate Justice W. Rylaarsdam stating that :Trial Judge G. Lewis could WAIVE Motion to recuse him for bias and Prejudice(Appendix 11 p.2) **IS IN CONFLICT WITH CALIFORNIA CODE OF CIVIL PROCEDURE 170.3(b)(2)(A)** *There shell be no waiver of disqualification where the basis is the Judge personal bias or prejudice concerning a party.*

Also in conflict with Cal. CCP 170.3(c)(4) confirming post challenged rulings Appendix 11, p. 7*A judge who fails to file consent or answer shell be deemed to have consented to his disqualification.* **Otherwise Rulings of Trial Judge G. Lewis 10 days after challenge WERE VOID. Justice Rylaarsdam confirmed them .**

Also confirming Order Involving Legal Malpractice without Trial by Jury of underlying **"CASE-within-A CASE"** (Appendix 11 p. 7) of UNDIVIDED ASSETS-house, account is in conflict with Court of Appeal case Piscitelli v. Friedenberg (2001) 87 Cal. App. 4th 953, 973-974, 105 Cal. Rptr. 2d 88. **Can't not be in one case mandatory trial by jury in another Order by Challenged Judge with No Jurisdiction over the case and Appellate Justice W. Rylaarsdam pardoning him.**

US Supreme Court has jurisdiction to entertain Petition for protected right to SELF REPRESENTATION (In Pro Se) under

Civil Rights Act of 1871, Title 28 U.S.C., §1331(a) Federal Question regarding Justice Lewis ruling without jurisdiction and Title 28 U.S.C., § 1343(1),(2) Depravation of Civil Rights with class based animus discrimination regarding Pro Se litigant.

ON WHAT KIND OF WILD WEST LAW, FRAUDULENT ATTORNEY COOLD KEEP CLIENTS FILES AND COURT COULD NOT FIND ANY THING WRONG WITH THAT, NO CAUSE OF ACTION?!?

Finally. When for the last time US Supreme Court had hearings in Civil Case of litigant IN Pro Se. Not in this Century?! The understanding of Petitioner is Criminal matters are favored over civil matters.

CONCLUSION

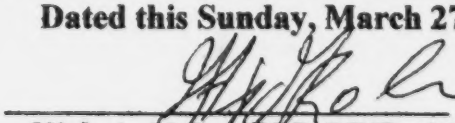
US Supreme Court has to consider this case not as a right of petitioner, but as a duty to maintain authority and respect to the courts when the law is in conflict with PRIVATE JUDICIAL INTEREST DECISION according to US SC Rule 17(1)(b)

A trial Judge having his son working for Brother of Defendant Counsel, ruling without jurisdiction, threatening to "lock up" litigant In Pro Se. SUCH A CASE DESERVES AT LEAST A FULL BRIEFING IN US SUPREME COURT, because it stains, stinks and doesn't go away.

Any System - Judicial, or Civil is worth as much, as it could stand for it's principles and standards purging the rotten members.

I declare under penalty and perjury under the laws of the State of California AND ACCORDING TO U.S.C. Title 28 § 1746 that the foregoing is true and correct .

Dated this Sunday, March 27, 2005



{signature}

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